IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE THIRD DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

HON'BLE SRI DEVINDER GUPTA,

CHIEF JUSTICE

and
HON'BLE SRI JUSTICE M.NARAYANA REDDY

WRIT PETITION NO : 2742 of 1999

Between:

A.Pydi Raju S/o. Kondala Rao,
Examiner, Munsif Magistrate Court, Kanigiri, Prakasam District.

..... PETITIONER

AND

1 The Registrar (Admn.,), High Court of A.P.,
Hyderabad.
2 The District Judge,
Prakasam District, Ongole.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ, order, or direction, more particularly one in the nature

of Writ of Mandamus, directing the respondents, (a) to release all the four increments which were stopped under the impugned orders, with retrospective effect from the due dates of the increments; (b) to pay back the subsistence allowance which was recovered from the petitioner; and (c) to pay with arrears and to count the suspension period as on duty for all attendant benefits and declare that the order dt.21-9-96 passed by the 2nd respondent imposing punishment on the petitioner, and the order dt. 30-4-97 passed by the 1st respondent in ROC No. 548/96-CII(1), dt. 30-4-97 confirming the order of the 2nd respondent are highly arbitrary, unjust, improper, contrary to law, violative of the Fundamental rights and the principles of natural justice, in the ends of justice.

Counsel for the Petitioner : MR.D.RAMALINGA SWAMY

Counsel for the Respondents : SMT.M.BHASKARA LAKSHMI, SC FOR APHC.

The Court made the following :

ORAL ORDER:

(per Hon'ble The Chief Justice)

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1. Petitioner was serving as Examiner in Munsif Magistrate's Court, Kanigiri, and was under suspension and was departmentally proceeded against for five charges. In nutshell the charges were not making an entry in U.D. Pay Register on 01.12.1993, temporary misappropriation of salary of Rs.1,892=00 payable to Kum. D.Pushpalatha, Copyist, who was working on deputation at District Court, Ongole, failure to maintain accounts from 01.12.1995 relating to his branch, not maintaining accounts relating to his branch on 29.11.1995 and 30.11.1995 and not giving proper account of 114 copy stamps in 37 copy applications. Charges were proved and he was imposed punishment of stoppage of four increments with cumulative effect. Even the period of suspension was treated as non-duty period. The subsistence allowance paid to him during suspension period was directed to be recovered in four equal instalments. Suspension, however, was revoked and he was directed to be posted as Examiner.

2. We have heard counsel for the parties. Absolutely there is no ground to interfere on merits with the finding of the Enquiry Officer. But considering the facts of the case that petitioner, during the relevant period, was under severe

tension and was in an irritating mood because of the family situations and the fact that Banks had observed bundh on 02.12.1995, and 03.12.1995 was a public holiday and draft was later on taken and sent to the person concerned, we are of the view that punishment imposed for such an offence is too harsh and is hardly disproportionate and deserves interference at our hands. It is not that the amount was not accounted for. Petitioner gave some explanation for not immediately forwarding the amount and also the reason for not maintaining the accounts for a couple of days because of his physical condition. Therefore, we allow the writ petition, modify the order of punishment and direct stoppage of four increments without cumulative effect and further direct that the period of suspension be treated as 'on duty'. The amount recovered from the petitioner for the suspension period, which was paid to him, will also be refunded to him with all other consequential benefits. The follow-up action will be taken up and completed within a period of three months from the date of receipt of a copy of writ order from this Court. No costs.

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DEVINDER GUPTA. C.J.,

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M. NARAYANA REDDY. J.,

Dated: 03.02.2005.

VRK.

That Rule Nisi has been made absolute as above.

Witness the Hon'ble Sri Devinder Gupta, Chief Justice, on this the third day of

February, Two thousand and five.

To

1 The Registrar (Admn.,), High Court of A.P.,
Hyderabad.
2 The District Judge,
Prakasam District, Ongole.

3. Two CD copies.

HON'BLE SRI DEVINDER GUPTA,

CHIEF JUSTICE

AND

HON'BLE SRI JUSTICE M. NARAYANA REDDY.

W.P.NO. 2742 OF 1999.

(Order of the Bench delivered by

Hon'ble The Chief Justice)

Dt: 03.02.2005.